

STATE OF MICHIGAN  
COURT OF APPEALS

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KAREN A. PARENT,

Plaintiff-Appellant,

v

MOUNT CLEMENS GENERAL HOSPITAL,  
INC.,

Defendant-Appellee.

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UNPUBLISHED

August 7, 2003

No. 235235

Macomb Circuit Court

LC No. 2000-000561-NZ

Before: Markey, P.J., and White and Zahra, JJ.

WHITE, J. (*dissenting*).

I respectfully dissent. The WPA only applies where the employee reports the alleged violation to a public body. Such conduct was not involved here. The WPA provides no remedy, and therefore is not the exclusive remedy.

Although plaintiff's expert was unable to conclude that using the tray method constituted malpractice, it does not follow that plaintiff did not have a reasonable basis for concluding that the tray method constituted malpractice when she failed to prepare the specimens in that fashion. The expert testified that standard practice was to process one specimen at a time, that he knew of no pathologists that used the tray method, that the tray method is "error prone," fails to minimize the risk of confusing or mixing up specimens, and "opens up the opportunity for substantial specimen mixup errors," that his opinion was not affected by Dr. Watkins' assertion that he used the method for twenty-seven years without error, that the method compromises the standard that requires that the identity of every specimen be maintained at all times during the processing and examination steps, and that the assertion that no errors have occurred is problematic because it assumes that all mixups would be discovered, and with the tray method an error would be hard to trace. The expert concluded that the tray method was not a safe method for processing pathology specimens from the patients' point of view.

Lastly, there was also a genuine issue of material fact regarding causation. Defendant's agents' testimony was inconsistent regarding who made the decision to terminate plaintiff's employment. Further, the alleged insubordination was the failure to prepare the specimens according to the tray method. Plaintiff contends that she told Dr. Watkins that she had a problem with this method, and that he told her to go to Human Resources. Dr. Watkins conceded that he told plaintiff it would be okay if she spoke to her supervisors since she did not know anyone in

Human Resources. Plaintiff contends that she spoke to her supervisors and explained that she had a problem with the tray method, and specifically discussed with King the dangers of mixing up the specimens.

/s/ Helene N. White